

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CONFORMIS, INC.,

Plaintiff,

v.

ACACIA RESEARCH  
GROUP LLC, ADVANCED SKELETAL  
INNOVATIONS LLC, BONUTTI  
SKELETAL INNOVATIONS LLC, and  
PHILLIP MITCHELL,

Defendants.

CIVIL ACTION NO. 1:13-cv-10377-PBS

**DEFENDANTS ACACIA RESEARCH GROUP LLC  
AND PHILLIP MITCHELL'S MOTION TO DISMISS**

Pursuant to Rules 12(b)(6) and 12(b)(1) of the Federal Rules of Civil Procedure, defendants Acacia Research Group LLC and Phillip Mitchell hereby move to dismiss all counts of plaintiff Conformis, Inc.'s complaint. In support of this motion, as more fully set forth in the Memorandum of Law and Points of Authorities filed herewith, defendants Acacia Research Group LLC and Phillip Mitchell state that plaintiff's complaint fails to allege facts sufficient to state a claim on which relief can be granted, or as to certain counts, allege a sufficient case or controversy, necessary to provide subject matter jurisdiction. In making this motion, defendants Acacia Research Group LLC and Phillip Mitchell further join in the arguments made in support of the motion to dismiss filed by defendant Bonutti Skeletal Innovations LLC.

WHEREFORE, defendants Acacia Research Group LLC and Phillip Mitchell respectfully request that this motion be ALLOWED, that the complaint filed by Conformis, Inc. be dismissed with prejudice, and that this Court award any and all further relief as this Court deems just and proper.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d) Acacia Research Group LLC and Phillip Mitchell respectfully request oral argument to address this motion as such argument will assist the Court in addressing the issues raised herein.

Respectfully submitted,  
ACACIA RESEARCH GROUP LLC  
and PHILLIP MITCHELL

By their Attorneys,

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Dated: April 22, 2013

LOCAL RULE 7.1 CERTIFICATION

On April 12, 2013 counsel for Acacia Research Group LLC and Phillip Mitchell conferred with counsel for plaintiff concerning this motion in a good faith attempt to narrow or resolved the issues raised herein.

/s/ Joseph P. Messina

Joseph P. Messina

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 22, 2013.

/s/ Robert R. Gilman

Robert R. Gilman